

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**SONDRA RAY, as the Personal)
Representative of the Estate of her son,)
STEVEN DAVIS,)**

Plaintiff,)

v.)

RODERICK GADSON, *et al.*,)

Defendants.)

Case No. 2:20-CV-00499-RDP

OPPOSED

**ADOC OFFICIALS' MOTION TO ADJOURN DEADLINES
FOR RESPONDING TO THE FIRST AMENDED COMPLAINT**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, Defendants Jefferson Dunn (“Commissioner Dunn”), Arnaldo Mercado (“Mercado”), Scott Sides (“Sides”), and Edward Ellington (“Ellington” and, collectively with Commissioner Dunn, Mercado, and Sides, the “ADOC Officials”) hereby respectfully request the Court enter an order adjourning the ADOC Officials’ deadlines for responding to Plaintiff’s First Amended Complaint (Doc. No. 60).¹ The ADOC Officials request that the Court adjourn their deadlines for responding to the First Amended Complaint, or any amended pleading, until twenty-one (21) days after the Court enters any order lifting the current stay of this action. As grounds for and in support of this Motion, the ADOC Officials state the following:

1. On May 5, 2021, the Court generally stayed this action “pending the resolution of the criminal investigation based on the same incident that is the subject of this lawsuit.” (Doc. No. 70 at 2; see also Doc. Nos. 46, 59).

2. On October 15, 2021, Plaintiff filed her First Amended Complaint, which named

¹ By filing this Motion, the ADOC Officials do not waive, and instead expressly preserve, all Rule 12(b) defenses.

the ADOC Officials as defendants. (Doc. No. 60).

3. Defendants Roderick Gadson, Steven Harrison, Clifford O’Neal, and Wilson Clemons (collectively, the “Responding Defendants”) moved to dismiss the First Amended Complaint. (Doc. Nos. 61-66, the “Responding Defendants’ Motions”).

4. In light of the stay, the Court entered an order on November 4, 2021, directing Plaintiff and the Responding Defendants to confer and submit a report “discussing whether the court should administratively terminate the [Responding Defendants’ Motions] until the Attorney General’s office closes the criminal investigation or set a briefing schedule for these motions.” (Doc. No. 70 at 2). Plaintiff and the Responding Defendants reported on November 18, 2021, that they “have no objection to the court administratively terminating the [Responding Defendants’ Motions] without prejudice for refiling once the stay is lifted.” (Doc. No. 73 at 2). Thus, on November 18, 2021, the Court administratively terminated the Responding Defendants’ Motions and indicated that, “[a]fter the court lifts the stay in this case, Defendants can refile their motions to dismiss, if appropriate.” (Doc. No. 74).

5. For these same reasons, the ADOC Officials respectfully request that the Court adjourn their deadlines for responding to the First Amended Complaint, or any amended pleading, until twenty-one (21) days after the entry of any order lifting the stay of this action. This adjournment will serve judicial economy and efficiency by maintaining the stay of this action while placing the ADOC Officials’ deadline for responding to the First Amended Complaint on the same general schedule as the other Defendants’ response deadlines.

6. Furthermore, because Plaintiff served the ADOC Officials on a variety of different dates, granting this Motion will allow the ADOC Officials to submit a consolidated response to the First Amended Complaint, to the greatest extent possible, rather than piecemeal responses on

different dates.

7. Finally, undersigned counsel were only recently retained to represent the ADOC Officials. Undersigned counsel will need additional time to investigate Plaintiff's claims and allegations and prepare an appropriate response to the First Amended Complaint. The ADOC Officials seek a general adjournment of their deadlines for responding to the First Amended Complaint, as opposed to an extension by a definite number of days, in light of the current stay of this action.

8. Undersigned counsel contacted Plaintiff regarding this Motion, and Plaintiff opposes this Motion. Plaintiff's counsel previously agreed not to oppose a 60-day extension of the ADOC Officials' deadlines for responding to the First Amended Complaint in return for counsel within the Legal Division for the Alabama Department of Corrections accepting service on behalf of Commissioner Dunn, Mercado, and Ellington. However, Plaintiff's counsel informed undersigned counsel that Plaintiff views this Motion as seeking a potentially indefinite extension of the ADOC Officials' deadline for responding to the First Amended Complaint and, therefore, Plaintiff opposes this Motion.

WHEREFORE, PREMISES CONSIDERED, the ADOC Officials respectfully request that this Court enter an order adjourning their deadlines for responding to Plaintiff's First Amended Complaint, or any amended pleading, until twenty-one (21) days after any order lifting the stay of this action.

Dated: December 3, 2021

/s/ Stephen C. Rogers

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon all attorneys of record in this matter, including without limitation the following, by the Court's CM/ECF system and/or U.S. Mail on this 3rd day of December, 2021:

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